

JAMES E. COOPER

IBLA 80-424

Decided June 9, 1980

Appeal from decision of the California State Office, Bureau of Land Management, rejecting for purposes of recordation the notices of location for lode mining claims CA MC 62469 through 62471 (C-952.4).

Affirmed.

1. Federal Land Policy and Management Act of 1976:  
Generally -- Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment --  
Mining Claims: Recordation

Under 43 U.S.C. § 1744(b) (1976) and 43 CFR 3833.1-2 the owner of an unpatented mining claim located on or before Oct. 21, 1976, must have filed a copy of the official record of the notice or certificate of location of the claim with the proper Bureau of Land Management office on or before Oct. 22, 1979, or the claim will be deemed to be conclusively abandoned and void under 43 U.S.C. § 1744(c) (1976) and 43 CFR 3833.4. A document required to be filed on or before Oct. 22, 1979, and received by BLM on Jan. 8, 1980, is not timely filed.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: James E. Cooper, pro se.

## OPINION BY ADMINISTRATIVE JUDGE THOMPSON

James E. Cooper appeals from a decision, dated February 1, 1980, of the California State Office, Bureau of Land Management (BLM), returning his mining claim location notices for the Bart No. 1, Rocky No. 2, and Jim No. 3 lode claims because he had not filed the proper notices with BLM on or before October 22, 1979, as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and the corresponding regulation, 43 CFR 3833.1-2(a). The notices show that appellant located his claims on June 13, 1970. BLM received copies of the notices on January 8, 1980.

The decision indicated that BLM is without authority to accept a certificate or notice of location of a mining claim, with a date of location prior to October 21, 1976, which was not filed with BLM on or before October 22, 1979. Appellant's filings were not received by BLM until January 8, 1980. BLM indicated that failure to file within the time period is deemed conclusively to constitute an abandonment of the mining claim pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976).

[1] Section 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976), requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice or certificate of location for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to file such material timely shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

The pertinent regulation, 43 CFR 3833.1-2(a), reads as follows:

§ 3833.1-2 Manner of recordation--Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, excluding lands within units of the National Park System established before September 28, 1976, but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service, shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location of the claim or site, a certificate of location containing the information in paragraph (c) of this section shall be filed.

Appellant did not file the documents required with the BLM office on or before October 22, 1979. Failure to comply must result in a conclusive finding that the claims have been abandoned and are void. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a).

[2] In his statement of reasons, appellant asserts that he received no notices or letters regarding the October 22, 1979, filing requirement, and was therefore unaware of it. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Robert W. Hansen, Federal Bentonite Co., 46 IBLA 93 (1980). Appellant's excuse provides no exception to this rule. The statute gives no authority for waiving the effect of a claimant's failure to meet the requirements, nor is such authority found elsewhere.

We note in closing that appellant may relocate these claims if for locatable minerals and file notice of this as provided in 43 CFR 3833.1, subject to any intervening rights of third parties, and assuming no intervening closure of the land to mining location.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Joan B. Thompson  
Administrative Judge

We concur:

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Frederick Fishman  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

